

Department of Telecommunications and Energy
Western Massachusetts Electric Company, D.T.E. 00-33
Attorney General Responses to WMECo's First Set of Information Requests
Person Responsible: David Effron
February 20, 2001

Information Request WM-1

- (a) Please state the name of the company with which you are presently associated and please provide the date on which you first became employed by this firm.
- (b) Please list the officers of your present company.

Response

- (a) Mr. Effron is presently self-employed, and has been since April 1982, doing business as Berkshire Consulting Services.
- (b) Mr. Effron is the only officer of his present company.

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Information Request WM-2

Please list the names of all professionals employed by or associated with the company with which you are presently employed.

Response

Marie T. Gomez is employed on part-time basis.

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Information Request WM-3

Please provide a chronology of your professional experience. Please include: (a) the dates worked at Gulf & Western Industries and the positions held; (b) the beginning and ending dates of employment at Touche Ross & Co. and the positions held, including the title of your last position at Touche Ross & Co.

Response

See attached resume.

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Information Request WM-4

Please provide a detailed description of the positions you have held in the last 10 years. Include business addresses for each position. Please also provide a list of clients served during that period.

Response

Mr. Effron has been self-employed, doing business as Berkshire Consulting Services, for the last 10 years. The business address:

David J. Effron
Berkshire Consulting Services
386 Main Street
Ridgefield, CT 06877

For a list of clients served, see the response to WM-8.

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Information Request WM-5

With respect to p. 2, lines 6-7 of your testimony, please provide the testimony you sponsored in D.T.E. 97-120 and D.T.E. 99-110.

Response

Mr. Effron has reason to believe that the testimony he sponsored in D.T.E. 97-120 is within the possession of the Company. A copy of the testimony he sponsored in D.T.E. 99-110 is attached.

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Information Request WM-6

With respect to p. 2, lines 6-7, please identify and provide the specific orders in D.T.E. 97-120 and D.T.E. 99-110 in which the Department addressed the assertions raised in your testimony.

Response

The Orders in D.T.E. 97-120 were issued September 17, 1999, December 1, 1999, December 20, 1999, and January 5, 2000. Mr. Effron has reason to believe that these orders are within the possession of the Company. The Department has not issued an Order addressing Mr. Effron's testimony in D.T.E. 99-110.

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Information Request WM-7

Please provide copies of all testimony you prepared within the past 10 years relating in any respect to FAS 106, FAS 87, Investment Tax Credits, utility capital structure and Residual Value Credit. Include the date the testimony was submitted and the entity to which it was submitted.

Response

Mr. Effron does not maintain a database of issues addressed in prior testimonies. Therefore it would be unduly burdensome to research all testimonies prepared within the past 10 years to identify testimony relating in any respect to FAS 106, FAS 87, Investment Tax Credits, utility capital structure and Residual Value Credit. For a list of testimonies presented in the last 10 years, please refer to the response to WM-8. Mr. Effron will make these testimonies available at his office for inspection and copying to a designated representative of the Company, with reasonable notice, at a mutually agreeable time.

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Information Request WM-8

Please provide a list of all testimony prepared by you or anyone else at the firm in which you are presently employed in the last 10 years. The list should include the entity to whom it was submitted, the date of the testimony and a table of contents listing the subject matter testified to.

Response

Attached is a list of testimonies presented, with a brief description of subject matter. It would be unduly burdensome to retrieve, copy, and enclose a table of contents for each testimony. However, Mr. Effron will make these testimonies available at his office for inspection and copying to a designated representative of the Company, with reasonable notice, at a mutually agreeable time.

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Information Request WM-9

Please state whether you have testified before the Department other than in D.T.E. 97-120 and D.T.E. 99-110. If yes, please list the proceedings in which testimony was submitted.

Response

Yes. See the attached list.

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Information Request WM-10

With respect to a Residual Value Credit (RVC) (Testimony, p. 4), please explain the benefit to ratepayers of applying the net proceeds from the fossil/hydro generation divestiture over some future period (as in the RVC) versus the immediate application to reduce other stranded costs. All other things being equal, would both applications produce the same results?

Response

See Effron Testimony, Pages 31-33 for an explanation of the benefits of applying the net proceeds from the fossil/hydro generation divestiture over some future period (as in the RVC). At Page 32, Lines 13-16, Mr. Effron states that the Company's method of reflecting the net proceeds from the Hydro/Fossil divestiture should not affect the transition charge differently from the residual value credit method in any substantive direct way.

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Information Request WM-11

In regard to p. 7 of your testimony, please provide documentation, tax-related and otherwise, supporting your assertion that "This allocation of the purchase price to the prepayment of the Interconnection Facilities Charge was made for income tax purposes, but did not in any way diminish the actual proceeds received by WMECO from the sale of the facilities."

Response

See Paragraph 1(c) of Second Amendment to Purchase and Sale Agreement, dated May 20, 1999. The reference is to allocation consistent with Section 1060 of the Code and the Treasury regulations thereunder. "Code" is defined as meaning the Internal Revenue Code of 1986, as amended.

Section 2.7 of the Purchase and Sale Agreement, into which Paragraph 1(c) of Second Amendment was inserted, states "the Buyer and Seller shall report the transactions contemplated by this Agreement and the Related Agreements for Federal income Tax and all other Tax purposes in a manner consistent with the allocation determined pursuant to this Section 2.7."

If the so-called prepayment diminished the actual proceeds, it would have appeared in Section 2.6 as an Adjustment to Purchase Price.

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Information Request WM-12

In regard to pages 7-9 of your testimony, please discuss whether the \$2.5 million associated with interconnection facilities is related to the \$2.5 million identified in the second amendment to the Purchase and Sale Agreement (PSA), filed in this proceeding in response to AG-IR-3-10. If the \$2.5 million is not related to the figure shown in the second amendment to the PSA, please explain and provide documentation showing the derivation of the \$2.5 million.

Response

The \$2.5 million associated with interconnection facilities is related to the \$2.5 million identified in the second amendment to the Purchase and Sale Agreement (PSA).

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Information Request WM-13

In regard to your assertion as to the treatment of Tariff T-9 on the bottom of page 8 and top of page 9 of your testimony, please explain how WMECO should account for the \$2.5 million received for the payment of interconnection rights? Please provide specific FERC accounting entries that would recognize the purchase of the fossil/hydro facilities from Consolidated Edison Energy Massachusetts, Inc. and their purchase of the interconnection rights.

Response

WMECO should account for \$2.5 million on its books of account in a manner that properly reflects the ultimate regulatory treatment of these proceeds. That is a matter for WMECO and its accountants, not Mr. Effron, to decide. Mr. Effron's testimony only addresses how the \$2.5 million is treated for the purpose of determining the residual value credit.

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Information Request WM-14

In regard to your assertion as to the treatment of Tariff T-9 on the bottom of page 8 and top of page 9 of your testimony, please explain whether in your opinion the base purchase price of \$47 million noted in Mr. Baumann's testimony, Exh. RAB-4, page 4B, included a purchase of interconnection rights. As part of your answer, please refer to the terms and conditions set forth in the second amendment of the Purchase and Sale Agreement filed in response to AG-IR-3-10. Explain your answer.

Response

It is Mr. Effron's understanding that the base purchase price of \$47 million includes the right to use the associated interconnection facilities in perpetuity. This does not entail the purchase and sale of tangible property with an identifiable cost to WMECO. Rather, this right of the Buyer to use the interconnection facilities is a condition of the sale that WMECO can fulfill at no cost to itself. This is similar, for example, to WMECO's assigning to the Buyer the rights to the names of the sold facilities pursuant to Section 2.1(g) of the Purchase and Sale Agreement. There is no separable purchase of interconnection rights. Rather the \$2.5 million specified in the second amendment of the Purchase and Sale Agreement is an allocation of the total purchase price to the interconnection rights for income tax purposes, as explained in the response to WM-11.

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Information Request WM-15

In regard to p. 10, line 18, you state that "However, the Department generally treated FAS 87 adjustments in a manner consistent with FAS 106 adjustments in that Order." Please provide page citations from the Department's order in D.T.E. 97-120 to support this assertion.

Response

See, for example:

Page 75: "it is appropriate to show pension and PBOP balances in the manner recommended by the Attorney General".

Page 76: discount rate to be used for return component for both pension and PBOP.

Pages 66 and 71: at time of divestiture WMECO to reconcile FAS 106 balance and to make one-time adjustment to pension obligation, in both cases to include unrecognized transition obligation, prior service costs and unrecognized gains and losses.

Pages 67 and 72: note parallelism of language in first paragraph on each page.

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Information Request WM-16

In regard to p. 10, line 20 of your testimony, please state whether there is any other reason, apart from your assertion pertaining to D.T.E. 97-120, that FAS 87 adjustments should be credited against FAS 106 adjustments. If your conclusion is based on other proceedings, please provide the specific documents on which you rely.

Response

Another reason is administrative efficiency – that is, accounting for these two similar transition costs (or credits) on the same schedule reduces the amount of paperwork. Although not specifically based on other proceedings, this method has been used elsewhere. See for example, Schedule 1, Page 5a of the Montaup Electric Company transition charge reconciliation.

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Information Request WM-17

With respect to your FAS 106 calculation on page 11 of your testimony, please state whether you have assumed that any NUSCO employee was terminated as a result of the July 1999 asset divestiture to Consolidated Edison Energy Massachusetts, Inc.

Response

Mr. Effron has not assumed that any NUSCO employee was terminated as a result of the July 1999 asset divestiture to Consolidated Edison Energy Massachusetts, Inc.

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Information Request WM-18

With respect to your FAS 106 calculation, please discuss whether there would be a FAS 106 impact if a plant divestiture caused a zero impact on employee levels.

Response

There would be an impact on FAS 106 expense allocated to generation if a plant divestiture resulted in the reassignment of employees to other functions, with a zero impact on total employee levels.

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Information Request WM-19

Referring to page 12 of your testimony, please explain why a NUSCO FAS 106 allocated adjustment of the net unrecognized gain should be made, assuming no actual NUSCO employees have been reduced as a result of the fossil/hydro divestiture?

Response

A NUSCO FAS 106 allocated adjustment of the net unrecognized gain should be made for the same reason that an allocation of the NUSCO transition obligation is included in the transition charge. The purpose of this adjustment is to reconcile the original estimate of the transition obligation for actuarial gains or losses since the original estimate was made. The reconciliation is to be made at the time of divestiture (Department Order, DTE 97-120, Page 66). As an allocation of the NUSCO transition obligation is included in the transition charge, that transition obligation should be reconciled at the time of divestiture.

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Information Request WM-20

- (a) With respect to your FAS 106 calculation on page 11, please state whether you have adjusted FAS 106 for NUSCO employees.
- (b) If the answer to (a) was yes, please list your reasons why the FAS 106 calculation should be adjusted with respect to NUSCO employees.

Response

- (a) Mr. Effron performed no FAS 106 calculation on page 11 of his testimony. However, he does adjust the FAS 106 transition obligation for NUSCO employees that is allocated to the transition charge.
- (b) See Effron direct testimony, Pages 12-13 and the response to WM-19.

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Information Request WM-21

With respect to your FAS 87 testimony, please explain whether the use of employee allocation factors for FAS 87 contained in your testimony on page 14 is more appropriate than actual FAS 87 amounts supplied by actuaries.

Response

The use of employee allocation factors for FAS 87 contained in Effron testimony on page 14 is appropriate in that it is consistent with the method of allocation used by the Company for the FAS 106 transition obligation, without regard to "actual" FAS 106 transition obligation amounts supplied by actuaries. The allocation method for FAS 87 actuarial gains proposed by Mr. Effron is also consistent with the method he proposed in DTE 97-120.

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Information Request WM-22

With respect to your FAS 87 and FAS 106 testimony starting on page 9 of your testimony, please provide the assumptions you made regarding the percentage of the obligation related to retired employees. Explain and justify each assumption provided.

Response

Mr. Effron made no explicit assumptions regarding the percentage of the obligation related to retired employees. He implicitly assumed that the percentage of the obligation related to retired employees used by the Company in determining the allocation of the FAS 106 transition obligation would also be appropriate with regard to FAS 106 and FAS 87 actuarial gains.

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Information Request WM-23

In regard to the discussion on page 32 of your testimony, please confirm that your position is that the IRS will allow WMECO an ITC recognition for a facility subsequent to the time when WMECO has sold the facility. Provide documentation and cite any support you rely on for such a position.

Response

Mr. Effron does not understand the question. With regard to income taxes payable, there is no ITC to recognize, as the Tax Reform Act of 1986 phased out investment tax credits. If the question pertains to the treatment of deferred investment tax credits on the Company's books of account, the decision on how to amortize, or recognize, these deferred investment tax credits rests with WMECO, not the IRS.

If the question is whether the IRS will allow continued amortization of investment tax credits for a facility that has been divested without asserting that there should be a recapture of any such unamortized investment tax credits, see, for example, the testimony of Donald P. Sena on behalf of Montaup Electric Company in FERC Docket No. ER99-1813-000, at pages 7-8, attached. See also the presentation of the Fitchburg Gas and Electric Light Company in DTE 97-115 and DTE 99-110, wherein no adjustment was made to the amortization of generation related investment tax credits as a result of divestiture, relevant section of DTE order and workpaper attached (which includes an adjustment to the SFAS 109 regulatory asset not related to divestiture).

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Information Request WM-24

Please refer to D.T.E. 97-120, DTE-IR-5-66. Please indicate whether you took any issue with WMECO's position in that data request in your testimony in D.T.E. 97-120.

Response

The response to the referenced information request contains certain sections of the Internal Revenue Code and the basis of the Company's opinion regarding treatment of investment tax credits related to divested units. Mr. Effron took no issue with the position that the information contained in the response formed the basis of the Company's opinion.

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Information Request WM-25

With respect to ITC, discussed starting on page 21 of your testimony,

- (a) Are you familiar with IRS Private Letter Ruling 10588499?
- (b) Does that PLR related to Southern California Edison Company conclude that normalization rules would be violated if Southern California Edison ratepayers were given the unamortized ITC benefits associated with sold plant? If your answer is no, please explain why not.
- (c) Please state whether the facts in PLR 10588499 are similar to the facts in this proceeding. If your answer is no, please explain fully.
- (d) Please provide the copy of PLR 10588499 you used in preparing this response.

Response

- (a) No. This PLR was not relied on by the Company to support its position regarding the treatment of investment tax credits related to divested units (response to AG-2-32). In addition, a PLR generally contains a statement that it may not be used or cited as precedent. Therefore, review of the cited PLR would be of no value in addressing the treatment of unamortized investment tax credits in this case.
- (b) See response to (a).
- (c) See response to (a).
- (d) See response to (a).

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Information Request WM-26

Please provide the specific penalty for violating the investment tax credit normalization rules for the situation noted in pages 21 through 25 of your testimony. Provide detailed cite support for your answer.

Response

Mr. Effron does not understand the question. Mr. Effron stated there would be no violation of investment tax credit normalization rules in the situation noted in pages 21 through 25 of his testimony. There can be no "penalty" for a violation that does not exist.

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Information Request WM-27

If the Department supported your recommendations with respect to the investment tax credit normalization rules (see your testimony, page 9 and following), and WMECO was penalized by the IRS as a result, what party, in your opinion, would be responsible to pay for any penalties? How would you recommend such penalties be reflected in rates?

Response

- (1) Page 9 and immediately following pages of Mr. Effron's testimony do not address treatment of investment tax credits.
- (2) Mr. Effron does not make "recommendations with respect to the investment tax credit normalization rules". Rather he recommends a method of treating investment tax credits in this case that is not inconsistent with such rules.
- (3) Mr. Effron is not entirely certain what the term "penalized by the IRS" in the context of the information request means. If the term means found not to be in compliance with normalization requirements, then the "penalties" for such non-compliance would be recapture of unamortized investment tax credits. Such "penalties" would place the Company in approximately the same position that it has already reflected in its compliance filing. In these hypothetical circumstances, if the DTE approved recovery of these "penalties" they would be reflected in rates by treating the investment tax credits as the Company treated them in its reconciliation filing. Again, this is entirely hypothetical and theoretical, as there is no precedent for any "penalties" in the circumstances being addressed here.

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Information Request WM-28

With respect to generation operating costs (Testimony, p. 26), please state whether WMECO's entitlements in the nuclear (Millstone) units were utilized to supply a portion of WMECO's standard offer requirements in 1998 and 1999?

Response

It is Mr. Effron's understanding that WMECO's entitlements in the nuclear (Millstone) units were utilized to supply a portion of WMECO's standard offer requirements in 1998 and 1999.

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Information Request WM-29

With respect to your testimony regarding the Madison load (p. 29), please state your understanding as to whether the Madison load was a retail or wholesale load. Please explain why you came to this conclusion.

Response

It is Mr. Effron's understanding that the Madison load was a wholesale load. This conclusion is based on the listing of the Madison sales as "Sales for Resale" in the FERC Form 1.

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Information Request WM-30

With respect to the Madison/Other sales discussed on page 29 of your testimony, please provide your understanding as to whether this transaction affected WMECO's retail ratepayers? If your answer is yes, please explain fully.

Response

Yes, this transaction affected WMECO's retail ratepayers. The treatment of this transaction in the Variable Component of the Transition Charge affects the calculation of the Transition Charge, which is paid by retail ratepayers.

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Information Request WM-31

With respect to the Madison/Other sales discussed on page 29 of your testimony, if WMECO had not sold to Madison, please present your analysis as to whether retail ratepayers would have been impacted. Please fully explain any assertion that ratepayers would have been affected.

Response

Yes, retail ratepayers would have been impacted. If WMECO had not sold to Madison, the output would have been available for sale to other buyers. Such other sales would go into the calculation of net generation operating costs, which go into the Variable Component of the Transition Charge. This in turn affects the calculation of the Transition Charge, which is paid by retail ratepayers.

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Information Request WM-32

Please state your understanding as to the inclusion or exclusion of Madison/Other sales listed on page 29 in WMECO's fuel charge prior to March 1, 1998. Please provide documentation for any assumptions or positions taken.

Response

It is Mr. Effron's understanding that energy costs associated with Madison/Other sales were removed from the fuel charge and capacity costs were credited through the NUG&T. See the response to AG-3-3, which Mr. Effron believes is in the Company's possession.

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Information Request WM-33

With respect to the Tariff 7 sales set forth on page 29 and 30 of your testimony, please explain what you mean on page 29, line 16 by the term 'off-system Tariff 7 sales'.

Response

What Mr. Effron means by the term 'off-system Tariff 7 sales' is the same thing that the Company means as that term is used in the response to AG-1-10. Mr. Effron understands the term off-system sales to mean sales to unaffiliated entities.

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Information Request WM-34

With respect to the Tariff 7 sales discussed on page 29, please provide your understanding as to whether this transaction affected WMECO's retail ratepayers. If your answer is yes, please explain fully.

Response

Yes, this transaction affected WMECO's retail ratepayers. The treatment of this transaction in the Variable Component of the Transition Charge affects the calculation of the Transition Charge, which is paid by retail ratepayers.

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Information Request WM-35

With respect to the Tariff 7 sales discussed on page 29, please provide your understanding as to whether retail ratepayers paid for the costs associated with supplying these retail sales. If your answer is yes, please explain fully.

Response

To the extent that there are generation operation and maintenance expense, administrative and general expenses, and other overheads allocated to generation that are properly attributable or allocable to Tariff 7 sales, retail ratepayers pay for such costs, as all such costs are included in generation operating costs.

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Information Request WM-36

With respect to the Tariff 7 sales discussed on page 29, please provide your understanding as to whether off-system Tariff 7 sales are served by generation costs associated with WMECO's own generation. If your answer is yes, please explain fully.

Response

It is Mr. Effron's understanding that off-system Tariff 7 sales are served by power purchased by WMECO.

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Information Request WM-37

Referring to your testimony, page 29, line 16-17, please explain the statement that “**all** of the generation costs are included in the transition charge...” (emphasis supplied).

Response

All fixed generation costs, such as return on and return of generating plant and generation related regulatory assets are included in the Fixed Component of the Transition Charge. All variable generation costs, such as purchased power and other generation operating costs are included in the Variable Component of the Transition Charge. This covers all generation costs that are properly recoverable.

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Information Request WM-38

Please refer to Exhibit DJE-1, Page 3, footnote 1. Is AG 3-6 the proper reference or should the reference be to AG 2-6? In addition, please provide the exact page reference from the Form U-13-60 to support the \$12,500,000.

Response

The reference should be to AG-2-6. The page reference from the Form U-13-60 is Page 19C. The \$12,500,000 is the average of the beginning and end of year unrecognized net gains.

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Information Request WM-39

Please refer to DJE-1, page 3. Please provide the calculations and supporting detail for the FAS 87 Unrecognized Gain of \$192,013,000.

Response

The FAS 87 Unrecognized Gain of \$192,013,000 appears in the response to AG-2-11 (as \$192,012,714), Page 2 of 2.

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Information Request WM-40

In regard to Exh. DJE-1, p. 5, please provide the calculations in which the figures for "FAS 106 Expense Recovered in CTC" for each 1998 and 1999 were derived. Please list and explain all assumptions used.

Response

	<u>1998</u>	<u>1999</u>	
Amortization	568	681	RAB-4, Page 12C
Return	510	545	RAB-4, Page 12C
Adjustment	(16)	(18)	DJE-1, Page 2; 1999 = 2*(5+4)
Net FAS 106	1,062	1,208	

The adjustment is the effect of correcting the opening balance to \$8,061,000 per the response to AG-2-31.

Department of Telecommunications and Energy
Western Massachusetts Electric Company, D.T.E. 00-33
Attorney General Responses to WMECo's First Set of Information Requests
Person Responsible: David Effron
February 20, 2001

Information Request WM-41

In regard to Exh. DJE-1, p. 6A, you include in your calculation "Short Term Debt". Please provide citation to Department precedent allowing for the inclusion of short-term debt in a electric company's capital structure when calculating the cost of capital.

Response

South Egremont Water Company, D.P.U. 95-119/122, p. 24 (1996).

Kings Grand Water Company, D.P.U. 87-228, pp. 21-22 (1988).

Massachusetts-American Water Company, D.P.U. 88-172, pp. 41-44 (1989).

Wylde Wood Water Works, Inc., D.P.U. 86-93, pp. 25-27 (1987).

Edgartown Water Company, D.P.U. 719, pp. 10-11 (1981).

Department of Telecommunications and Energy
Western Massachusetts Electric Company, D.T.E. 00-33
Attorney General Responses to WMECo's First Set of Information Requests
Person Responsible: David Effron
February 20, 2001

Information Request WM-42

In regard to Exhibit DJE-2, page 2, please explain why the "Total" column when summed (\$61,671,000) does not equal the combination of the Residual Value Credit 2000-2009 ($\$6,201,000 * 10 = \$62,010,000$) plus Residual Value Credit (\$2,584,000)?

Response

The present value, \$40,573,000, of the two streams cited are equal, not the sums of the undiscounted nominal annual dollar amounts. As the year by year amounts in the "Total" column are relatively front loaded, the sum of the nominal dollars, \$61,671,000, necessary to equal a given present value is less than sum of the nominal dollars in the levelized stream, \$64,594,000, necessary to equal the same present value.

Department of Telecommunications and Energy
Western Massachusetts Electric Company, D.T.E. 00-33
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Person Responsible: David Effron
February 20, 2001

Information Request WM-43

Referring to Exhibit DJE-2, page 2, provide the detailed calculations and supporting workpapers for the adjustments for the T-9 and Inflation deferral calculation (please refer to footnote 8)?

Response

1999 RVC DJE-2, page 2 2,584 = .06095
Proceeds net of Mitigation Incentive DJE-2, page 1 42,397

$$.06095 * 2,500 = 152$$

$$.06095 * 5,778 = 352$$